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November 12, 2008

Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination and Legal Administration  
Federal Elections Commission  
999 E Street NW  
Washington D.C. 20463

Dear Mr. Jordan:

I received a letter from you yesterday, November 11, regarding MUR 8109, a complaint against me from the Lungren for Congress campaign. Our treasurer received your letter on November 10, 2008. Yesterday was the first time I had been notified of the complaint. I've called Kim Collins in your office twice today to be sure I understand the complaint, but she hasn't returned my call.

Included among the materials you sent me via our treasurer was a letter dated September 26, 2008, from an attorney for the Lungren campaign to Thomasena Duncan, Esq., at the FEC alleging that our campaign had violated FEC regulations 11 C.F. R. 110.11(c)(3)(iii) and 11 C.F. R. 110.11(b)(1). The letter also alleges that the content of one of our television ads concerning Rep. Lungren was "blatantly false."

The complaint letter cites two URL's as the source of evidence for the alleged violations. In the letter, it is difficult to distinguish between the letter "l" and the number "1" in the first URL. I believe that the URL cited in the letter is:

<http://www.youtube.com/watch?v=sWqkIVX1G7g>

When I go to this website, or to websites with any combination of the letter "l" and the number "1" in the URL, I get the same message: "The video you have requested is not available." Our campaign has not, to my knowledge, at any time posted or removed a video from the YouTube website with the above URL or a similar URL interchanging the letters and numbers "l" and "1."

The second URL cited in the complaint letter is:

<http://www.youtube.com/watch?v=pekqQixoiw0>

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This second URL is a valid web address, which contains a YouTube version of one of the television ads we ran during our campaign, informing viewers about me. The ad was produced by Paul Kinney, of Paul Kinney Productions in Sacramento. Mr. Kinney has a wealth of experience in producing television ads for federal candidates, and he has assured me that the necessary disclaimers, including the text, "Paid for by Durston for Congress," and my statement on camera, "I'm Dr. Bill Durston and I approve this message," are fully in compliance with the letter and the spirit of FEC regulations. I have also personally read and re-read FEC regulations 11 C.F. R. 110.11(c)(3)(iii) and 11 C.F. R. 110.11(b)(1) myself, and I find nothing in those regulations placing requirements on television ads that were not met by our campaign in the ad cited in the complaint letter or in every other ad we aired. I therefore believe that there is absolutely no basis for Rep. Lungren's allegation that we violated FEC regulations 11 C.F. R. 110.11(c)(3)(iii) or 11 C.F. R. 110.11(b)(1).

With regard to the "blatantly false" charge by Lungren's attorney concerning the content of another one of our television ads featuring Lungren on a luxury vacation in Hawaii paid for by special interests, there is ample evidence that Lungren and his attorney are the ones who are being dishonest. Our ad features segments from the May 28, 2008, Charles Gibson Report on ABC News. The news report documented that Dan Lungren and his wife had taken a four day luxury vacation to Hawaii earlier in the year, paid for by the American Association of Airport Executives, despite the Honest Leadership and Open Government Act of 2007 which was specifically intended to prohibit such trips.

According to the ABC News report, Lungren paid for the trip out of his own campaign funds initially, but stayed at the luxurious Hapuna Beach Prince Resort where the special interest group was holding its annual convention. The American Association of Airport Executives held a two-hour fundraiser for Lungren while he was at the resort and contributed \$20,000 back into his campaign, enough to cover the cost of the vacation and more. The ABC News Report, which includes footage of Lungren lounging by the pool, documents that other than attending the fundraiser, he spent only 30 minutes in meetings during the entire four day vacation. Lungren defended the trip to ABC News, stating:

"I'm a California kid. I grew up around pools. We do a lot of business around pools."

According to an article in the Sacramento Bee published October 4, 2008, Lungren claimed that he got approval from both the Committee on Standards of Official Conduct (House Ethics Committee) and the FEC before taking the trip. In the letter from Lungren's attorney of September 28, 2008, he claims that Lungren "sought the advice and counsel" of the House Ethics Committee prior to the trip.

I called the FEC after the October 4 Sacramento Bee article to see if I could confirm Lungren's claims, and I was told that the FEC doesn't ever approve such

trips in advance. I also called the House Ethics Committee and was unable to find anyone who could confirm that Lungren ever got advance approval for the Hawaii trip. I sent a letter to the House Ethics Committee on October 8 requesting further investigation of Lungren's Hawaii trip, but I have not yet received a reply.

In summary, I believe that there is no basis whatsoever for Rep. Lungren's complaint that our campaign violated FEC regulations. On the contrary, I believe that Lungren's complaint is a thinly veiled attempt to divert attention from his own blatant lack of ethics. Moreover, if there is an FEC prohibition on false content in campaign materials, please let me know the precise regulation, as Lungren repeatedly sent mailers to voters in our district with demonstrably false statements about me.

Thanks for your attention to this matter. Please let me know if you need any further information from me. To ensure a timely reply, please direct any future correspondence to my home address which is given below.

Yours truly,

*Bill Durston M.D.*

Bill Durston, M.D.

Gold River, Ca. 95670

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